

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Annual Compliance Review, 2020

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Docket No. ACR2020

**MOTION FOR LEAVE TO RESPOND AND RESPONSE OF
THE ASSOCIATION FOR POSTAL COMMERCE AND DELIVERY
TECHNOLOGY ADVOCACY COUNCIL
REGARDING FY2020 REPORT AND FY 2021 PLAN
(March 19, 2021)**

I. MOTION FOR LEAVE TO RESPOND

Pursuant to Rule 301.160 of the Commission’s Rules of Practice and Procedure, 39 C.F.R. §3010.160, the Association for Postal Commerce ("PostCom") and the Delivery Technology Advocacy Council (“DTAC”) request leave to submit this response to the Reply Comments of the United States Postal Service (“USPS Reply”), submitted on March 15, 2021 in this docket. While the procedural schedule for this docket does not contemplate responses to reply comments, PostCom and DTAC believe this brief response is necessary to rebut mischaracterizations of their initial comments in the USPS Reply. Accepting this response will not prejudice any party.

II. RESPONSE

The Postal Service seems more concerned with the tone of PostCom’s and DTAC’s comments than their substance. At the same time the Postal Service objects to PostCom and DTAC’s characterization of its service performance as “dismal,” it acknowledges that it has “chronically failed to meet its service targets.” USPS Reply at 9-10. The adjective applied to this non-performance does not change the track record. Furthermore, the Postal Service’s rebuttal that its performance targets were “stretch” goals should not mollify the Commission. USPS Reply at 9. The service standards indicate the time period in which each type of mail

should be delivered. Mailers rely on these service standards to develop campaigns and time mailings. Every piece of mail not delivered in the service standard timeframe presents a potential loss of revenue to the mailer, as well as postage paid for a service not properly rendered. For origin-entered Marketing Mail pieces, there has historically been a one in three chance that the piece will not be delivered within the generous service standards for Marketing Mail. *See* PostCom-DTAC Comments at 2 (table). Even if the Postal Service set “stretch” goals, it did not provide adequate service.

Moreover, the Postal Service presumably set goals that it intended to meet, even if doing so would take a concerted effort, and it should be judged by whether it met those goals. Indeed, that is the only standard by which mailers and the Commission can evaluate the Postal Service’s performance. If the Postal Service did not expect to meet its targets, but instead believed it would provide some lower level of service, it has not revealed what lower service level it intended to provide. And, as noted, it has failed to even establish performance goals for FY2021. Mailers can only comment on the information made available to them.

The Postal Service’s reply comments, intentionally or not, exploit this information gap throughout. The Postal Service does not report aggregated data on scan-to-home and other last mile events, but claims that because individual mailers have data about their own mailings, the data is available. USPS Reply at 7. The Postal Service surely recognizes that neither PostCom, DTAC, nor the Commission has access to this data for all mailers; thus, the request for further reporting. It defends its failure to establish *any* targets for FY 2021 by claiming it “looks to finalize High-Quality Service indicators soon.” *Id.* at 8. We look forward to seeing those indicators; unfortunately, we were not able to comment on them in this docket because they do not yet exist. Similarly, the Postal Service repeatedly refers to its forthcoming strategic plan,

which will supposedly address all the issues raised by commenters in this and other dockets. *See* USPS Reply at 4, 8, 10, 11, 12. But the Postal Service has not publicly shared any details of this plan. Mailers can only comment on, and the Commission can only evaluate, the Fiscal Year 2021 Performance Plan the Postal Service filed. And while mailers were eager to work with the Postal Service in developing the strategic plan to ensure it reflected the needs of the customers who support the Postal Service with revenue, they have been shut out of the process.

The Postal Service defends its Market Dominant Composite service indicator by reiterating that it “will continue to report the disaggregated high-quality performance indicators found in its FY 2020 Annual Report to Congress.” USPS Reply at 10. But PostCom’s point was not that the disaggregated information would no longer be available. Rather, the concern is that more information - if it's too highly aggregated and not reflective of how actual customers use the mail - can still be obfuscatory even if it is additive. For example, the Postal Service might make more prominent use of this new indicator even though it obscures more salient performance data. Even if unintentionally, the perceived comprehensiveness of the indicator might be misleading. It is not clear what benefit this composite indicator provides above the disaggregated information, and it has the potential to distract from that more valuable information.

Finally, the Postal Service misunderstands the purpose of the rulemaking docket PostCom and DTAC propose. First, it claims making changes “in the wake of an anomalous year and largely on the basis of last year’s performance, would be an overreaction to a temporary situation.” USPS Reply at 11. The proposed docket, however, would address longstanding problems with regulatory oversight of the Postal Service’s performance—problems illustrated by the Postal Service’s refusal in this docket to divulge any plans for remedying service problems.

The Postal Service then claims the docket would be premature because it will soon release its strategic plan, which will address “the long-standing gap between the service targets and service results” and involve numerous Commission proceedings. *Id.* In other words, the Postal Service would prefer to act unilaterally, rather than at the direction of the Commission or in response to mailer demands. Indeed, its plan “to create more reliable and predictable service that meets the service expectations of our customers” was developed without any input from those customers about what their service expectations are. *Id.*

Whatever that plan contains, the Commission’s role is to regulate the Postal Service and ensure that it provides its customers with adequate service. It is time for the Commission to fulfill that role.

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